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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/825,575	04/15/2004	Tommi Heinonen	P3002US00	8670
30671 7590 03/16/2010 DITTHAVONG MORI & STEINER, P.C. 918 Prince Street Alexandria, VA 22314				
EXAMINER RAJAN, KAI				
ART UNIT 3769		PAPER NUMBER		
NOTIFICATION DATE 03/16/2010		DELIVERY MODE ELECTRONIC		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

docket@dcpatent.com

Office Action Summary**Application No.**

10/825,575

Applicant(s)

HEINONEN ET AL.

Examiner

Kai Rajan

Art Unit

3769

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 11 February 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-23, 33-45, 47, 48, 50 and 51 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-23, 33-45, 47, 48, 50 and 51 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

The Examiner acknowledges the reply filed February 11, 2010.

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on November 13, 2009 has been entered.

Response to Arguments

Applicant's arguments have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claim 39 is rejected under 35 U.S.C. 101 because a claim to computer program code, under the broadest reasonable interpretation, is broad enough to read on a signal per se, and must be included on a *tangible* computer readable medium. A claim directed to a signal per se is non-

statutory subject matter because a signal by itself is transitory in nature and is not a machine, manufacture, composition or process. Additionally, to avoid a written description rejection under 35 U.S.C. 112, first paragraph the applicant is advised to amend the claim to include only those media described in the specification.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 41 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, it is unclear how a “broadcast communication *device*” is included in a “first *signal*” since a signal itself is not structure. As such, the phrase renders the claim indefinite.

Note to Applicant Regarding Claim Interpretation

Regarding the interpretation of the claims, “configured to/for,” and “adapted to/for,” are recitations of functional language. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. The Examiner has placed recitations of functional language in *italics*.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 – 12, 14 – 23, 33 – 39, 41 – 45, 47, 48, 50, and 51 are rejected under 35 U.S.C. 102(b) as being anticipated by Russek U.S. Patent No. 5,319,355.

1. A method, comprising:

receiving at a mobile wireless event handling device (Column 3 lines 58 – 68, column 4 lines 1 – 6), a first signal via a first network, from a monitoring device on a patient who is separate from the mobile wireless event handling device, the first signal comprising at least a general broadcast emergency signal (Column 4 lines 51 - 65, column 5 lines 60 – 68 coded pulse signal is transmitted from the patient to master units) and including information corresponding to physiological parameters and an identification of the monitoring device (Column 4 lines 51 – 65 coded pulse signal includes identification information for the patient, equipment, and location); and

causing, at least in part, transmission from the mobile wireless event handling device to a third party, a second signal via a second network, the second signal including at least information corresponding to the identification of the monitoring device (Column 4 lines 51 – 65, column 5

lines 32 – 56 master units transmit coded signals to pagers for doctors, nurses, or emergency response).

3. The method of claim 1, wherein the monitor is adapted to detect, sense, or measure the physiological parameters (Column 7 lines 38 – 68, column 8 lines 1 – 13).

4. The method of claim 1, wherein the monitor is adapted to stimulate, intervene, or control physiological functions affecting the physiological parameters (Column 1 lines 10 – 23, column 7 lines 38 – 42, column 8 lines 1 – 13 defibrillators or ventilators).

5. The method of claim 1, wherein the physiological parameters relate to heart function (Column 7 lines 38 – 42 EKG).

6. The method of claim 1, wherein the physiological parameters relate to brain function (Column 7 lines 38 – 42 EEG).

7. The method of claim 1, wherein the first signal and the second signal are wireless signals (Column 3 lines 58 – 68, column 4 lines 1 – 65, column 7 lines 62 – 68 transmissions are made by means of radio frequency).

8. The method of claim 7, wherein the first network and the second network are wireless communication networks (Column 3 lines 58 – 68, column 4 lines 1 – 65, column 7 lines 62 – 68 transmissions are made by means of radio frequency).

9. The method of claim 8, wherein the second network is a cellular network (Column 15 lines 41 – 51 pagers are connected to any cellular network).

10. The method of claim 1, further comprising:

processing the first signal prior to transmitting the second signal (Column 4 lines 51 – 65, column 8 lines 49 – 68, column 9 lines 17 – 59 upon receipt of the coded alarm signal the master control processes the signal and determines the appropriate pagers to be called).

11. The method of claim 10, wherein processing further comprises:

verifying a source of the first signal (Column 4 lines 51 – 65, column 9 lines 17 – 59) coded alarm signal includes patient and equipment identifying information which is processed by the master control unit to determine the appropriate pagers to be called);

identifying an event associated with the first signal and related to the physiological parameters (Column 9 lines 60 – 66 the master control unit also processes the transmitted medical data for prioritization); and

determining the third party for the second signal (Column 4 lines 51 – 65, column 9 lines 17 – 59) coded alarm signal includes patient and equipment identifying information which is processed by the master control unit to determine the appropriate pagers to be called).

41. The method of claim 1, wherein the first signal comprises a broadcast communication device (Column 5 lines 60 – 68, column 6 line 1, column 7 lines 65 – 68 alarm signal generator transmits signals over RF emergency bands until a response is received from a master control unit).

42. The method of claim 1, wherein the general broadcast emergency signal is adapted for receipt by all mobile wireless event handling devices within communication range of the monitoring device (Column 5 lines 60 – 68, column 6 line 1, column 7 lines 65 – 68 alarm signal generator transmits signals over RF emergency bands until a response is received from a master control).

43. The method of claim 42, wherein the mobile wireless event handling devices are equipped with at least minimal event handling capabilities for receiving the general broadcast emergency signal (Column 9 lines 17 – 59 master controls have programming to receive, process, and act upon coded alarm signals).

44. The method of claim 1, wherein the mobile wireless event handling device includes at least minimal event handling capabilities for receiving the general broadcast emergency signal (Column 9 lines 17 – 59 master controls have programming to receive, process, and act upon coded alarm signals).

47. The method of claim 1, wherein the first signal further includes information conveying location of the monitoring device (Column 4 lines 51 – 65 coded pulse signal sent from alarm generator at the patient includes location information).

Claims 12, 14 – 23, 33 – 39, 45, 48, 50, and 51 are rejected on substantially the same basis as claims 1, 3 – 11, 41 – 44 and 47, above, by Russek (see citations above).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 2 and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Russek U.S. Patent No. 5,319,355 as applied to claims 1 and 12 above in view of Haller et al. U.S. PGPub No. 2002/0052539.

In regards to claims 2 and 13, Russek discloses external devices for monitoring heart rate or EKG such as Hater monitors (Russek column 7 lines 38 – 42, column 8 lines 1 – 13), yet fails to disclose an implanted monitor. However, Haller et al. a reference in an analogous art for recording heart signals discloses external or implanted heart rate monitors (Haller et al. paragraph 0240). It would have been obvious to one of ordinary skill in the art at the time of the

invention to substitute the external devices of Russek with the implanted monitor of Haller et al., since Haller et al. discloses the two as interchangeable (Haller et al. paragraph 0240).

Claim 40 is rejected under 35 U.S.C. 103(a) as being unpatentable over Russek U.S. Patent No. 5,319,355 as applied to claim 1 above.

Regarding claim 40, Russek teaches transmitting signals from a master control (event handling device) to pagers including "information as to the location, patient name, equipment identification and/or other relevant information provided directly from the medical equipment" (Russek column 5 lines 32 – 56). Russek fails to disclose transmitting information identifying the master control to the pagers. However, it would have been obvious to one of ordinary skill at the time the invention was made to include supplemental identifying information such as the source of a data transmission. First, transmitting identifying information is known in the art of data transmission, especially in RF and cellular transmissions such as those used in Russek. Second, Russek states that additional information may be included in transmissions (see above). Third, the master control transmits the information to pagers, which are known to display data of the sender including caller ID information, which would identify the master control. Finally, while Applicant's specification states in paragraph 0019 that event handling device identification data can be added to transmissions, there is no advantage or necessity discussed for such a feature, and thus is considered nonessential to the functionality of the invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kai Rajan whose telephone number is (571)272-3077. The examiner can normally be reached on Monday - Friday 9:00AM to 4:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Henry Johnson can be reached on 571-272-4768. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kai Rajan/
Examiner, Art Unit 3769

/Henry M. Johnson, III/
Supervisory Patent Examiner, Art Unit
3769

March 10, 2010